

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

CALIFORNIA SPORTFISHING
PROTECTION ALLIANCE,

Plaintiff,

v.

DENBESTE YARD & GARDEN , INC.,

Defendant.

Case No. [22-cv-01975-RFL](#)

**ORDER ADOPTING MAGISTRATE
JUDGE'S REPORT AND
RECOMMENDATION**

Re: Dkt. No. 34

The court has reviewed *de novo* Magistrate Judge Ryu's Report and Recommendation Re: Motion for Default Judgment (Dkt. 34), as well as the case file in the matter, the materials cited in the report, Den Beste's Additional Amicus Brief (Dkt. No. 37), and California Sportfishing Protection Alliance's objections to the report (Dkt. 38).

The court concurs with the report's recommendation that default judgment be entered. Defendant has been on notice since February 1, 2023, that it needs to retain counsel to appear in this matter and, if necessary, to seek appointment of a new receiver with the Sonoma County Superior Court to allow it to hire counsel (Dkt. No. 24), but defendant has submitted no evidence that it has made any efforts to do so and has continued not to appear in the case.

With respect to California Sportfishing's request for a higher attorneys' fees rate, the burden is on California Sportfishing to provide the court with satisfactory evidence that their "requested rates are in line with those prevailing in the community for similar services of attorneys of reasonably comparable skill, experience, and reputation." *Ctr. for Biological Diversity v. Env't Prot. Agency*, No. C 17-00720 WHA, 2017 WL 6761932, at *3 (N.D. Cal. Dec. 4, 2017), *report and recommendation adopted*, No. C 17-00720 WHA, 2018 WL 264087

(N.D. Cal. Jan. 2, 2018). “When considering the rates of other attorneys of comparable skill, experience, and reputation, courts should look to fees awarded in other types of *similar litigation*.” *Id.* (emphasis added). “Parties are required to justify the reasonableness of the requested rates; if the party fails to meet this standard, the fee request may be reduced or excluded altogether.” *Id.*

Here, the relevant community is the Northern District of California, specifically the Sonoma County area, where the action and the work performed by counsel took place. The court concurs that the declarations submitted by California Sportfishing are conclusory, as they provide no information about specific rates charged by comparable counsel in Sonoma County (or the Bay Area more broadly) for similar types of environmental litigation. California Sportfishing lists a series of fee awards in its objections, but those cases do not appear to involve Clean Water Act or similar environmental litigation. The only information in the record on that topic is that another court awarded hourly rates of \$660 for Andrew L. Packard and \$320 for William Carlon in an environmental litigation recently in this District. *Californians for Alternatives to Toxics v. Kernen Constr.*, No. 20-CV-01348-YGR (LB), 2023 WL 4991861, at *4 (N.D. Cal. Apr. 21, 2023), *report and recommendation adopted sub nom. Californians for Alternatives to Toxics v. Kernen Constr. Co.*, No. 4:20-CV-01348 YGR, 2023 WL 4995716 (N.D. Cal. June 13, 2023). Because plaintiffs’ counsel has not met their burden regarding their requested rates, the court concurs with Magistrate Ryu’s reduction of counsel’s hourly rates as listed in the report.

In sum, the Court adopts Magistrate Ryu’s report in every respect based on its independent *de novo* review of the record.

IT IS SO ORDERED.

Dated: December 8, 2023



RITA F. LIN
United States District Judge